

Temporary
ACTS
AND
LAWS
OF
His MAJESTY'S Province
OF
NEW-HAMPSHIRE,
IN
New-England.

By Order of the GOVERNOR,
COUNCIL and ASSEMBLY,

Pas'd October 16th. 1759.

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1761.

LAWS OF NEW HAMPSHIRE.

AN ACT FOR ESTABLISHING AND REGULATING COURTS OF PUBLIC JUSTICE WITHIN THIS PROVINCE. — PASS'D 11TH OF WM. 3.
WITH ADDITIONAL PARAGRAPHS OF OTHER ACTS RELATIVE THERETO.

Whereas the establishing and regulating courts of justice, doth very much tend to the honour and dignity of the crown, and to the ease and benefit of the Subject :

Be it therefore Enacted by the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That every justice of the peace in this province, is hereby authorized and impower'd, to take cognizance of, hear, try, and determine, any criminal offence against any penal law not exceeding the sum of forty shillings, and to issue all necessary process, and award execution thereon with legal cost ; as well as in all other cases where he is, or shall be so authorized by particular laws. But any person against whom such sentence shall be given, by one or more justices of the peace, out of the court of general sessions of the peace, may appeal from the same, to the next court of general sessions of the peace, to be held in and for said province ; the appellant recognizing with sureties, in a reasonable sum, not exceeding five pounds, for his appearance at the court appealed to, and prosecuting his appeal there with effect, and for performing and abiding the order or sentence of said court thereon, which shall be final ; and in the mean time to be of the good behaviour. The appellant in such cases is to observe the same rules in bringing forward the appeal, as is hereafter directed in civil cases, and to pay the same fee for entering such appeal ; and to the jury, if it shall be tried by them, as is paid for cases so tried at the inferior court — *Provided* such liberty of appealing shall not be construed to extend to such cases as by the particular laws aforesaid, are otherwise order'd.

Justices power in criminal cases, by virtue of a paragraph of an act passed 4th of G. 1. relating to sureties upon mean process, &c.

Appeal granted.

Provido.

And every justice of the peace within this province, may cause to be stayed and arrested, all affrayers, rioters, disturbers or breakers of the peace, or any other who shall go armed offensively, or put his Majesty's subjects in fear, by menaces or threatening speeches : And upon view of such justice, confession of the

Justices power to stay affrayers, rioters &c. and to punish the breach of the peace ; by virtue of a paragraph in an act past

13th of W. 3d,
for punishing
criminal offend-
ers.

offender, or legal proof of any such offence, the justice may commit the offender to prison, until he or she find such sureties for the peace and good behaviour, as is required, according to the aggravations of the offence; and cause the arms or weapons so used by the offender, to be taken away, which shall be forfeited and sold for his Majesty's use. And may also punish the breach of the peace in any person, who shall smite, or strike another, by fine to the King, not exceeding twenty shillings; and require bond with sureties for the peace, till the next court of general sessions of the peace, or may bind the offender over to answer for said offence at said court, as the nature and circumstances of the offence may require.

An act of 13th of
W. 3d, for giving
aid to sheriffs,
&c.

That any of said justices, for the preservation of the peace, upon view of the breach thereof, or of any other transgression of the law proper to his cognizance, done, or committed by any person, or persons whatsoever, shall, and hereby is, empowered, in the absence of a sheriff, under-sheriff, or constable, to require any person, or persons, to apprehend and to bring before him, such offender or offenders: And every person, or persons that shall neglect, or refuse to obey any justice, or justices, in apprehending such offender, or offenders, being thereunto required as aforesaid, shall incur and suffer the like pains and penalties as is provided for refusing or neglecting to assist any sheriff, under-sheriff, or constable, in the execution of his office.

Justices power
in civil cases by
virtue of the act
for establishing
courts of justice
in this province,
past the 11th
of W. 3d.

And every justice of the peace in this province, in the town or parish where he dwells, shall be, and hereby is, authorized and empowered to take cognizance of, hear, try, and determine, any civil action, wherein the demand is for any sum not exceeding forty shillings, arising within this province, in which the title of land, or any real estate is not concerned. And to give judgment for the debt, or damage, according to the nature of the action, with the legal cost, and grant execution thereon — And for that purpose to issue all necessary processes, which with the execution aforesaid, shall be in the forms prescribed by law. All writs issued by any justice of the peace, shall be directed to the sheriff of said province, his under-sheriff or deputy, or to any constable of the town or parish where the person, on whom any such writ is to be served, resides; and shall be executed seven days before the day therein appointed for the trial, and return'd to the justice who issued the same, at or before the time of trial. And all pleas in abatement, and bar, in any such action, shall be made and enter'd, before any issuable plea is given.

Direction of
writs by 4th of G.
1. prescribing
forms. To be
served 7 days be-
fore the time of
trial.

Pleas in abate-
ment and bar to
be first made.

Judgment may
be given on de-
fault of appear-
ance.

And in case any person, on whom any writ issued by a justice of the peace, has been duly serv'd and return'd, shall not appear at the time of trial, either by himself or attorney, the justice may enter judgment, in the absence of such party, according to the nature of the action and evidence produced by the plaintiff — And may also give judgment, where any Plaintiff shall become non-suit, or discontinue his suit for the defendant, for his legal cost — *Provided*, nevertheless, that any party aggrieved at the judgment or sentence of any justice of the peace, in any of the cases aforesaid, may appeal from the same, to the next inferior

Liberty of ap-
pealing.